

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

Case No. 19-20905

The Diocese of Rochester,

Chapter 11

Debtor.

MOTION OF S.B. FOR RELIEF FROM THE AUTOMATIC STAY

S.B. (the “Movant”) brought a claim against The Diocese of Rochester (the “Debtor” or the “Diocese”) and other defendants. S.B. filed a lawsuit against the Diocese of Rochester and Cardinal Mooney High School in Monroe County Supreme Court (Index No. E2019007694), and also filed a lawsuit against the Brothers of the Holy Cross in Monroe County Supreme Court (Index No. E2020006594) (the “Clergy Abuse Actions”). The Movant also filed a Sexual Abuse Claim against the Diocese. The Movant, a child sexual abuse claimant in the above-captioned Chapter 11 case, by and through his undersigned counsel, hereby moves (this “Motion”) this Court for an Order granting relief from the automatic stay pursuant to section 362 of the Bankruptcy Code to allow the Movant to proceed to judgment on the grounds set forth below:

Background Facts

1. The Diocese of Rochester filed a petition for relief under Chapter 11 on September 12, 2019 (the “Petition Date”).
2. On or about July 30, 2020, the Movant timely filed Sexual Abuse Proof of Claim No. 197 against the Diocese.

3. The Clergy Abuse Actions and the related Sexual Abuse Claim seek damages against the Debtor and other parties on account of clergy child sexual abuse by an individual for whom the Diocese and the other parties were responsible.

4. The Clergy Abuse Actions are pending in Monroe County Supreme Court (Index No. E2019007694 and Index No. E2020006594), subject to the automatic stay and the *Agreed Stipulation and Order Pursuant to 11 U.S.C. §105(a) Staying Continued Prosecution of Certain Lawsuits* [Docket No. 452]. The claims set forth in the Clergy Abuse Actions are unliquidated.

Relief Requested

5. The Movant respectfully requests relief from the automatic stay for cause pursuant to 11 U.S.C. § 362(d) to prosecute the Clergy Abuse Actions against the Diocese and all other defendants to such actions. The Movant will seek leave to amend the complaint in the pending action in Index No. E2020006594 to consolidate that action with his claims in Index No. E2019007694. The Movant seeks stay relief to prosecute the Clergy Abuse Actions and obtain a judgment therein. However, the Movant will not seek to enforce such judgment, subject to further order of the Court.

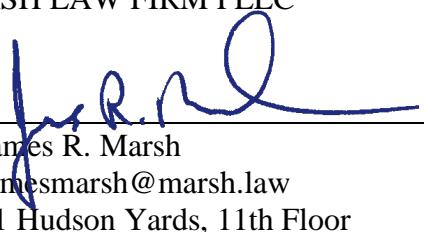
Basis for Relief Requested

6. Relief from the automatic stay should be granted because cause exists as set forth in (a) the *Joinder of the Official Committee of Unsecured Creditors in Motions for Relief from Automatic Stay* (the “**Joinder**”) and (b) the *Memorandum of Law in Support of Motions for Relief from Automatic Stay* (the “**MOL**”), filed concurrently with this Motion, and any related declaration or reply pleadings and such other arguments or evidence as may be adduced at the hearing hereon. The Joinder, the MOL and all exhibits or attachments thereto are incorporated herein by reference for all purposes as though set forth fully herein.

7. The Movant hereby waives his right to an automatic termination of the stay that would otherwise be granted pursuant to 11 U.S.C. § 362 (e) after the expiration of thirty (30) days from the date of his request for relief under 11 U.S.C. § 362 (e).

WHEREFORE, Movant requests that this Court issue an Order (a) granting relief from the automatic stay as requested herein and in the Joinder and (b) such other and further relief as the Court deems just and proper.

MARSH LAW FIRM PLLC

By 

James R. Marsh
jamesmarsh@marsh.law
31 Hudson Yards, 11th Floor
New York, NY 10001
Phone: (212) 372-3030